

FILED BY [Signature] D.C.FILED BY [Signature] D.C.

05 JUL -5 PM 3: 19 IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

05 JUN 30 PM 3: 14

THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
W/D OF TN, MEMPHIS
UNITED STATES OF AMERICA,

THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
W/D OF TN, MEMPHIS

Plaintiff,

vs.

No. 04-20256-MI

STEVEN MARCEL BIRCH,

Defendant.

MOTION GRANTED

Revert to

Friday, August 19, 2005
at 2:30 p.m.

JON PHIPPS McALLAN
U.S. DISTRICT JUDGE

DATE

GOVERNMENT'S MOTION TO CONTINUE SENTENCING HEARING

The United States by and through the United States Attorney for the Western District of Tennessee files this motion to continue the sentencing hearing currently set in this matter for Wednesday, July 6, 2005, at 9:00 a.m. In support of this motion counsel for th United States would show:

1. Government counsel has reviewed a copy of the position paper filed by the defendant. The defendant raises several objections that, if upheld, will have an impact on the sentencing guideline calculations. In order to adequately and effectively address the defendant's objections at the sentencing hearing, the government needs additional time to issue and serve witness subpoenas, and prepare for the hearing.

2. Pursuant to Local Rule LCr32.1(d) government counsel anticipates that the sentencing hearing in this matter will exceed 30 minutes, and that evidence will be presented through more than one witness.

3. Government counsel has communicated with defense counsel regarding this motion *via* telephone. Government counsel was advised by a representative of defense

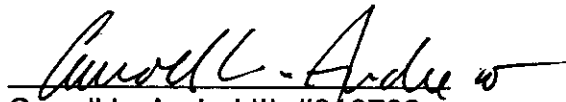
counsel's office, that defense counsel had no opposition to this motion, and that if the matter were not continued on the government's motion, defense counsel would be filing a separate motion to continue due to a conflicting trial setting.

WHEREFORE PREMISES CONSIDERED, the United States respectfully requests that the sentencing hearing in this matter be continued to a date certain for a period of at least three weeks.

Respectfully submitted,

TERRELL L. HARRIS
United States Attorney

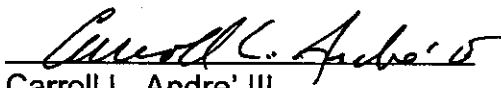
By:


Carroll L. Andre' III, #010733
Assistant United States Attorney
167 N. Main, Room 800
Memphis, TN 38103
(901) 544-4231

CERTIFICATE OF SERVICE

I, Carroll L. Andre' III, Assistant United States Attorney for the Western District of Tennessee, hereby certify that a copy of the foregoing GOVERNMENT'S MOTION TO CONTINUE SENTENCING HEARING has been mailed, first class postage prepaid, to Mr. Leslie I. Ballin, Attorney at Law, 200 Jefferson Avenue, Suite 1250, Memphis, TN 38103; and, has been hand-delivered to Ms. Judy B. Palmer, United States Probation Officer, Third Floor, Federal Building, 167 N. Mid-America Mall, Memphis, Tennessee 38103.

This 30th day of June, 2005.


Carroll L. Andre' III
Assistant United States Attorney



Notice of Distribution

This notice confirms a copy of the document docketed as number 157 in case 2:04-CR-20256 was distributed by fax, mail, or direct printing on July 5, 2005 to the parties listed.

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Honorable Jon McCalla
US DISTRICT COURT